

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.1129 OF 2023

**SATYASHILA TANAJI KAKADE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA**

Mr. Ganesh J. Kore, Advocate for the applicants
Mr. V. S. Badakh, APP for the respondent/State
Ms. Prajakta Deshmukh, Advocate, Advocate for the informant

CORAM : R. M. JOSHI, J.

DATE : 4th AUGUST, 2023

P.C. :-

1. Ms. Prajakta Deshmukh learned counsel states that he has instructions to appear on behalf of informant to assist the learned APP. Having considered to the nature of offence, permission is granted.

2. Applicants apprehend arrest in connection with Crime No. 272/2023 registered with Kallam Police Station, Dist. Osmanabad for the offences punishable under Sections 143, 147, 148, 353, 307, 324, 323, 504, 506 r/w 149 of IPC.

3. The informant Ajit Jadhav is the Police Patil who reported incident occurred on 24/06/2023 at around 8.00 am wherein the applicant No.1 abused and threatened him of his false implication in the

crime for rape as well as outraging her modesty. There is allegation against her that by using stick she assaulted him on his back and neck. There is allegation against the other applicants that they also assaulted the informant. The allegation is also made against the applicant Umesh that he pressed the neck of the informant. Allegation is also made about causing assault on his private part. It is contended by the informant that after hearing the clamour his father came to the spot and saved him.

4. Learned counsel for the applicants states that the applicant No.1 had lodged report against the present informant on 25th June, 2023 in respect of the incident occurred on 24th June, 2023. It is further submitted that the informant herein had lodged report against the applicants in respect of the incident occurred on 13th June, 2023 belatedly on 19th June, 2023. It is thus contended by the counsel for the applicants that owing to the nature of injuries caused to the informant, the allegations made in the first information report do not get substantiated.

5. Learned APP opposed the application by contending that there is statement of independent witness who confirms the facts stated in the first information report. Apart from this he placed reliance on the injury certificate which indicates causing of three injuries to the

informant. Learned counsel for the informant opposed the grant of anticipatory bail on the ground that there are criminal antecedents against applicant Nos. 2, 3, 4 and 7. She further submitted that applicant Nos. 3, 4 and 7 are convicts and they are released on bail. It is her contention that owing to the acts of the present applicants even after they are convicted, it is not a fit case to grant anticipatory bail.

6. Perusal of the record shows that the applicant No.1 had lodged report bearing FIR No. 268 of 2023 against the present informant on 24th June, 2023 in respect of the incident occurred on 23rd June, 2023. The report bearing FIR No. 265 of 2023 lodged by the present informant against the applicants on 19th June, 2023 clearly indicates that there are disputes between the parties. In such circumstances court is required to be on guard while assessing the allegation made in the first information report. Perusal of the first information report shows that 7 persons assaulted the informant including causing assault on his private part. However, injury certificate shows two contusion and one abrasion. This injury certificate does not support the contention of the informant about the causing of assault by the 7 persons as narrated by him. This becomes more relevant in view of the fact that now the informant is opposing the grant of bail of the present applicants on the ground that there is criminal history against them. Pertinently the criminal history

which is referred to oppose the bail application is the complaint lodged by the informant himself. The said complaint was in respect of the alleged incident occurred on 13th June, 2023 whereas the report in respect of the same was lodged after 6 days i.e. on 19th June, 2023. This Court therefore has every reason to accept the contention of learned counsel for applicants that this could be a case of false or over implication.

7. Considering the nature of allegations, no weapons are involved in to the said assault. Nothing is to be recovered at the instance of present applicants. In such circumstances having regard to the possibility that this could be a false implication/over implication, liberty of applicants needs to be protected. Hence application is allowed in terms of interim order dated 14th July, 2023 with modification condition to direct applicants to attend the concerned police station once in a week till filing of the charge-sheet.

(R. M. JOSHI, J.)

ssp